In the High Court of Punjab and Haryana at Chandigarh

CWP No. 13196 of 2006

Date of decision: 24.8.2006

David Lawrence and others

…Petitionera

Versus

Union of India and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. Ravi Badyal, Advocate,

for the petitioners.

JUDGMENT

M.M. KUMAR, J.

The instant petition has been filed by various Constables, Head Constables, Sub Inspectors, Inspectors and Assistant Commandant of Border Security Force (BSF), Central Reserve Police Force (CRPF) and Indo-Tibetan Border Police (ITBP) for quashing orders dated 17.4.2006 (P-12 and P-13), 22.6.2006 (P-14), 7.8.2006 (P-15) and Clause 5 of the order dated 10.10.1997 (P-3). The orders

Annexures P-12, P-13 and P-14 have been passed by the Directorate General of Border Security Force whereas order Annexure P-15 has been issued by the Directorate General, Into-Tibetan Border Police. The aforementioned orders have been passed on the representations made by the petitioners for implementation of the replacement of pay scale w.e.f. 1.1.1996 and release of arrears of pension/pensionary benefits to them. The claim made by them has been rejected by the respondents by passing the aforementioned orders. A perusal of the impugned orders shows that the petitioners have earlier filed C.W.P. Nos. 20063 of 2005 and 20073 of 2005, which were disposed of by directing the respondents to take cognisance of their grievances and pass a speaking order. The claim made by the petitioners was that IVth Central Pay Commission had made recommendation w.e.f. 1.1.1986, suggesting uniformity of pay scales of all the Central Police Organisations and it also recommended the same scale for Delhi Police and the Central Police Organisations (CPOs). It has been pointed out that higher pay scales than the one given to the petitioners were recommended but have been denied to them. A reference to the recommendation made by the Vth Central Pay Commission for rationalisation of ranks of Central Police Officers from Constable to Subedar Major to achieve parity with the Delhi Police was also made, which was pending consideration of the respondents. In that regard reliance has been placed on a Single Bench judgment of the Delhi High Court in the case of **Lal Bahadur Singh v. Union of India, 2001(1) SCT 549** (P-6). Further reliance has also been placed on a

Division Bench judgment of this Court following the aforementioned view rendered in C.W.P. No. 17711 of 2000, decided on 14.11.2002 (Jagmal Singh v. Union of India). The learned Single Judge of Delhi High Court in the case of Lal Bahadur Singh (supra) had set aside Clause 5 of the letter dated 10.10.1997 (P-3), which has announced that the letter is effective from the date of issue and in respect of the intervening period the issue was to be regulated in accordance with the provisions of the Central Civil Services (Revised) Pay Rules, 1997. Clause 5 of the letter dated 10.10.1997 (P-3), which is also under challenge in the instant petition, reads as under:-

> "The above orders will be effective from the date of issue. For the period from 1.1.1996 till the issue of this order, the pay in the revised scale will be regulated in accordance with the provisions of the Central Civil Services (Revised) Pay Rules, 1997."

It is conceded position before us that the Letters Patent Bench of Delhi High Court, in LPA No. 437 of 2000 and CM No. 1523 of 2000 (Cross Objections), decided on 29.11.2005 (P-16), has set aside the view taken by the learned Single Judge in the case of Lal Bahadur Singh (supra). After referring to the detailed recommendations made by various Pay Commissions for restructuring and reorganisation of the Central Police Organisations, it has been held that the benefits were not payable to the officers/officials from a retrospective date i.e. 1.1.1996 and the pay scale were to be effective from the date of issuance of notification i.e. 10.10.1997. In other words, Clause 5 of the letter dated 10.10.1997

has been upheld. Once the basis of the judgment passed by a Division Bench of this Court on 14.11.2002 on the premise that the view taken by the learned Single Judge of Delhi High Court had attained finality and no appeal was filed by the Union of India, has been reversed then it cannot be concluded that the judgment of Division Bench of this Court would be a binding precedent because as a matter of fact the Letters Patent Bench has upheld the validity of Clause 5 of the letter dated 10.10.1997 by giving benefit from the date of issuance of the letter and not from 1.1.1996 as is sought to be claimed in the instant petition. The orders Annexures P-12 to P-15 are based on the view taken by the Division Bench of Delhi High Court and therefore deserved to be upheld.

On our repeated queries from the learned counsel, he has not been able to divulge any other issue which might be arising in the instant petition. He has conceded before us that the Letters Patent Bench of the Delhi High Court has reversed the decision of the learned Single Judge by upholding Clause 5 and the decision of the Division Bench of this Court was primarily based on the aforementioned view of the learned Single Judge of the Delhi High Court. No other point has been raised.

In view of the above, the writ petition fails and the same is dismissed.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

August 24, 2006

Pkapoor